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# *Understanding Your Scenic Easement*



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CATALOGING PREP.

*Selway, Lochsa and  
Middle Fork Clearwater  
National Wild & Scenic Rivers*

## ***Background***

North-central Idaho is blessed with pristine rivers and beautiful scenery. In the 1960s, a group of people, joined by a determination to preserve beautiful free-flowing rivers and pastoral valleys, worked to protect certain areas through passage of the Wild and Scenic River Act in 1968.

Under the Act, Congress designated three segments of the Clearwater River system: the Selway, Lochsa and Middle Fork of the Clearwater Rivers. The rivers were selected on the basis of their outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic and cultural values. The Act directs that these values be protected and preserved for generations to come.

In the 1970s, Congress appropriated funds for the USDA Forest Service to purchase scenic easements to preserve the character of the river and land surrounding one-quarter mile on each side of the river. Cooperative management of existing easements is important to maintain the beauty of these pristine rivers and valleys.

The Forest Service administers 185 miles of the Selway, Lochsa and Clearwater Rivers from the east bridge at Kooskia, Idaho, to their headwaters.

## ***What Is a Scenic Easement?***

A scenic easement is a legal agreement a property owner makes with the government regarding the type and amount of development that may take place on his or her property. Each easement's restrictions are tailored to the particular property and to the interest of the individual owner.

To understand the easement concept, think of owning land as holding a bundle of rights. A

landowner may sell or give away the whole bundle, or just one or two of those rights. In this case, the bundle might include the right to construct buildings, subdivide the land, restrict access, or harvest timber. To give away certain rights while retaining others, a property owner grants an easement to an appropriate third party.

The United States government purchased some of these rights in the form of scenic easements. On these rivers, the United States paid for the right to determine the type and amount of development that may take place on private property.

### ***How Long Does An Easement Last?***

An easement can be written so that it lasts forever. This is known as a perpetual easement. The easements on these rivers are perpetual easements. An easement runs with the land; that is, the original owner and all subsequent owners are bound by the conditions of the easement. Easements are recorded at the county courthouse so that all future owners and lenders will learn about the restrictions when they obtain title reports.

### ***How Do The Landowner and Community Benefit?***

Today, many people are moving from cities to rural areas. This may result in uncontrolled growth which greatly detracts from the values that brought people to the area. The Wild and Scenic River easements protect the qualities that attracted people to the area.

Adjacent communities may benefit from increased tourism dollars. Recreation uses in this area include rafting, kayaking, swimming, hiking,

camping and viewing scenery. Maintaining the beauty and integrity of the land through scenic easements encourages these activities and boosts the local economy.

## ***How Does the Easement Affect the Landowner?***

It is vital that all property owners, and potential property owners have a clear understanding of scenic easement requirements. Landowners should read the easement that applies to their property. The following is a discussion of some of the more common easement clauses.

**PROPERTY INSPECTIONS:** All easements include the right of the United States to administer the land to protect the scenic, recreational, geologic, fish and wildlife, historic, cultural and other similar values of the Wild and Scenic Rivers system. The easement allows inspection of the property for compliance with and administration of the easement.

**COMMERCIAL USE:** With some negotiated exceptions resulting from pre-existing conditions on specific properties, professional or commercial activities are prohibited from lands in the easement area except for those business activities that can be conducted from a residential dwelling without exterior alteration of the dwelling.

**SIGNING:** The easement prohibits the erection of all signs, billboards and outdoor advertising structures except for one sign not greater than 24" x 36" that is used to advertise the property for sale, or to advertise the sale of goods, products or services on the land. One additional sign is allowed to designate the owner or name of the property.





**CONSTRUCTION:** No construction of new buildings or structures, or external alteration of existing buildings may take place without prior written approval. Prior written approval is also necessary for waste and sewage disposal facilities associated with building sites. In order to document that the building or alteration conforms with the easement, it is necessary to submit architectural and landscape plans for prior written approval. This plan should document the building's dimensions and colors.

**TOPOGRAPHY CHANGES:** No changes in the landscape or land surface are allowed without prior written approval. This means that any excavation, soil movement or disturbance must be approved. Road building is a major topographic change in the land surface. Temporary roads, driveways or skid roads must be approved prior to construction.

**ACCESS:** Some easements have a limit to the numbers and locations of access to the property.

There are many more possible clauses in scenic easements. Since easements vary from property to property, prospective buyers should study the easement for the property they are interested in buying.

### ***What is the Forest Service's Role?***

The Forest Service works with the landowner to enforce the conditions of each scenic easement. To do this, the Forest Service monitors the property on a regular basis. An agency representative visits the property, usually accompanied by the owner. These visits and all monitoring observations are documented. The District Ranger then determines whether the property remains in the condition prescribed by the easement.